

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)
)
V,) Hon. Mary K. Vyskocil
) 20-cr-160-7
)
SETH FISHMAN, DVM)

MOTION CONCERNING DR. SETH FISHMAN’S RIGHT TO A
SPEEDY TRIAL

DR. SETH FISHMAN, pursuant to the Sixth Amendment of the U.S. Constitution and the Speedy Trial Act (18 U.S.C. Section 3161) files this Motion concerning his right to a speedy trial and states:

On June 12, 2020, this District implemented a Second Amended Standing Order, *In Re Corona Virus/Covid-19 Pandemic, Extension of Time Under Speedy Trial Act*, 20-mc-00196 (S.D.N.Y. June 12, 2020). In the Order, this District determined that a re-opening of the courts for trials is virtually impossible until September of this year. *See* Order at 3. The Order also includes a finding that the ends of justice outweigh the interests of the parties in a speedy trial, and therefore, the time period between June 15, 2020 and September 8, 2020 must be excluded under the Speedy Trial Act. *See* Order at 3. Finally, the Order provides that any motion seeking an exception to this order in order to exercise that right should be

directed to the District Judge assigned to the matter in the first instance..” *See* Order at 3-4.

As set forth in the attached Exhibit A, Declaration of Seth Fishman, Dr. Fishman seeks an exception to this Order and seeks to invoke his right to a Speedy Trial under the Sixth Amendment and the Speedy Trial Act.

Dr. Fishman was arrested more than 8 months ago and was indicted almost 4 months ago.

As a defendant in a criminal case, Dr. Fishman has a constitutional right to a Speedy Trial.

Dr. Fishman is aware of and concerned with the COVID-19 pandemic especially given that Dr. Fishman himself has cancer and therefore is at serious risk during the pandemic.

Nonetheless, Dr. Fishman’s right to a speedy trial under the Sixth Amendment remains in jeopardy. The Government continues to produce discovery on a “rolling basis” after the Indictment in this case. While this is understandable given the pandemic, such delayed production is also directly impacting Dr. Fishman’s right to a speedy trial. Furthermore, it is worth noting that, unlike the other defendants, the Government seized Dr. Fishman’s personal devices, his email accounts, his corporate Dropbox account, his personal property, and other evidence they intend to

use at trial *8 months ago* and therefore had the capacity to produce some if not all of his discovery many months ago.

For these reasons, Dr. Fishman demands a speedy trial and that your Honor set a trial date in accordance with the Speedy Trial Act.

s/Andrew S. Feldman_____
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Attorney for Seth Fishman, DVM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was served via CM/ECF on all counsel of record authorized to receive service.

s/Andrew S. Feldman_____

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1. I am Dr. Seth Fishman, DVM and I am a defendant in the above case.
2. I was arrested by the FBI and federal law enforcement officers in or around October 27, 2019 at Miami International airport.
3. In or around March 9, 2020, the Government returned an indictment against me and 18 other defendants.
4. My attorney, Andrew S. Feldman, has advised me concerning my constitutional right under the Sixth Amendment of the U.S. Constitution to a speedy trial. My attorney has also advised me regarding my statutory right to a speedy trial pursuant to 18 U.S.C. Section 3161 ("Speedy Trial Act"). My attorney has also explained the Speedy Trial Act to me and how the provisions in that Act potentially apply in my case.
5. My attorney has also provided me with the discovery productions in the case. I am diligently reviewing the discovery in this case. My attorney and I are also continuing to diligently review the discovery in this case. My attorney has also advised me that there is additional discovery that the Government intends to produce to the defense for our review.

6. My attorney has explained to me that, this District has implemented a standing order due to the risks posed by COVID-19, determining that a re-opening of the courts for trials is virtually impossible until at least September of this year. My attorney has also explained to me that, in that Order, this District found that the ends of justice outweigh the interests of the parties in a speedy trial and that the time period between June 15, 2020 and September 8, 2020 must be excluded under the Speedy Trial Act. Lastly, my attorney has explained to me that any defendant seeking an exception to this Order must file a motion with the district court assigned to the individual case in the first instance and that no exception will be granted without approval of the Chief judge after consultation with the district court assigned to the case.
7. Understanding the above, at this time, I am unwilling to waive my right to a speedy trial as guaranteed by the Sixth Amendment and 18 U.S.C. Section 3161 and I therefore demand a speedy trial.

I declare under penalty of perjury that the above is true to the best of my knowledge.



SETH FISHMAN, DVM

6/30/20

DATE